

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

U S MAGISTRATE COURT
DS - SDTX
FILED
FEB 13 2007 BM
Michael N. Milby, Clerk
Laredo Division

UNITED STATES OF AMERICA

V.

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§

CRIMINAL NO. L-06-1687

MAURO FERNANDO MONTEMAYOR-ESTRADA

FACTUAL BASIS FOR GUILTY PLEA

TO THE HONORABLE COURT:

The United States of America, by and through the United States Attorney for the Southern District of Texas and the undersigned Assistant United States Attorney, and the defendant and his counsel, hereby stipulate to the following:

I.

In order to establish the offense of possession of a firearm by a convicted felon, the Government must prove beyond a reasonable doubt that - (1) the defendant knowingly possessed a firearm, as charged; (2) that before the defendant possessed the firearm, the defendant had been convicted in a court of a crime punishable by imprisonment for a term in excess of one year, that is a felony offense; and (3) that the possession of the firearm was in or affecting commerce; that is, that before the defendant possessed the firearm, it had traveled at some time from one state to another.

II.

If this case had proceeded to trial, the Government would have proved by legal and competent evidence that on or about June 13, 2006, Border Patrol agents went to the residence of the defendant **MAURO FERNANDO MONTEMAYOR-ESTRADA** ("MONTEMAYOR") at 3524 Cuarto Vientos in Laredo, Texas. MONTEMAYOR was encountered outside his residence and admitted that he was

a Mexican citizen illegally in the U.S. MONTEMAYOR was arrested. MONTEMAYOR's wife, San Juanita Montemayor, granted agents consent to search the house. Agents found a Beretta 9 millimeter handgun model 92FS Vertec, serial number Ber309889, in the master bedroom.

Under rights advisement and waiver, MONTEMAYOR stated that the gun was his and that he had it in his residence for protection because he is a member of a criminal gang and feared a member from a rival gang. MONTEMAYOR also admitted that he is a convicted felon and that he knew he could not have the gun.

Defendant MONTEMAYOR was convicted of Burglary of a Habitation, first degree felony, a crime punishable by imprisonment for a term exceeding one year, on December 13, 1989, in cause number K-89-389 in the 341st Judicial District, Webb County, Texas and of Possession of a Controlled Substance, second degree felony, a crime punishable by imprisonment for a term exceeding one year, imposed on December 6, 1999 and signed and entered on April 6, 2000, in cause number 99CRD364 in the 49th Judicial District, Webb County, Texas.

The gun has been test fired by the Bureau of Alcohol, Tobacco, Firearms and Explosives and found to be operable. Based on examination and research of the firearm, Bureau of Alcohol, Tobacco, Firearms and Explosives agents have identified the firearm as having being manufactured outside the State of Texas and has therefore traveled in interstate commerce to arrive in Texas.

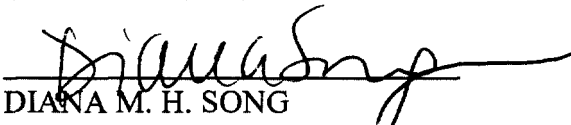
Defendant **MAURO FERNANDO MONTEMAYOR-ESTRADA** confesses and judicially admits to knowingly possessing a firearm, namely a millimeter handgun model 92FS Vertec, serial number Ber309889, a firearm that had traveled through interstate commerce and that defendant has prior felony convictions, namely convictions for Burglary of a Habitation and Possession of a Controlled Substance.

III.

The defendant and his counsel, having read the foregoing stipulation of facts, agree that these facts are true and correct and are approved by signing this document.


Respectfully Submitted,

DONALD J. DeGABRIELLE, JR.
UNITED STATES ATTORNEY

By: 
DIANA M. H. SONG
Assistant United States Attorney

APPROVED:


MAURO FERNANDO MONTEMAYOR-ESTRADA
DEFENDANT


MYRNA MONTEMAYOR
ATTORNEY FOR DEFENDANT

Date: 2-13-07
Date: 2/13/2007